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COMMITTEE ON THE RIGHTS OF THE CHILD

Second session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 29 September 1992, at 3 p.m.

Chairman: Mrs. BADRAN

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The meeting was called to order at 3.10 p.m.

REVIEW OF DEVELOPMENTS RELEVANT TO THE WORK OF THE COMMITTEE, INCLUDING:

DEVELOPMENTS IN OTHER HUMAN RIGHTS TREATY MONITORING BODIES (agenda item 4) (continued)

1. Mr. KOLOSOV, referring to Mrs. Belembaogo's report on the Committee against Torture, said that article 19, paragraph 1, and article 37 (a) of the Convention on the Rights of the Child dealt with similar issues. However, in the case of children, it was difficult to draw the line between torture or other cruel, inhuman or degrading treatment and punishment (art. 37) and the various forms of physical and mental violence or maltreatment (art. 19). It might be worthwhile to seek the advice of the Committee against Torture on the matter, since issues under those articles might well arise in the course of examination of the reports submitted by States parties. It was important for the Committee to know how to deal with them.

2. Mrs. BELEMBAOGO agreed that it was a very complex matter. A suitable definition of such acts was essential in order to determine where the responsibility lay. It was not only States parties or government institutions which subjected children to such treatment but also parents and legal guardians. Furthermore, it should be borne in mind that the Convention also prohibited cruelty to children by third parties.

3. Mrs. SANTO PAIS said that the question at issue was a long-standing problem which had also been encountered in drafting the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. None the less, the Committee should not lose sight of the fact that, under the Convention on the Rights of the Child, all forms of torture, punishment, violence and abuse were prohibited, irrespective of the perpetrators. Lastly, she pointed out that the Human Rights Committee had adopted a general comment relating to article 7 of the International Covenant on Civil and Political Rights that might be of relevance.

4. Mgr. BAMBAREN said that no form of abuse or violence which caused children suffering could be tolerated. His understanding of the distinction between the two articles in question was that article 19 concerned violence or abuse within the immediate family environment or under guardianship, whereas article 37 concerned maltreatment by third parties.

5. Mr. HAMMARBERG, reporting on developments in the Committee on Economic, Social and Cultural Rights, said that it was currently discussing a topic of particular interest, namely social and economic indicators, which would be considered under agenda item 7. The International Covenant on Economic, Social and Cultural Rights had elements in common with the Convention on the Rights of the Child such as health and education. Social and economic indicators were bench-marks for assessing the extent to which the rights embodied in the Convention were respected. For instance, a useful social indicator in assessing progress in health matters might be child mortality rates. The only disadvantage of the indicators established in the context of development was

that they reflected collective standards, whereas the human rights approach focused more on the individual. Furthermore, useful social indicators on children's rights would need to be more detailed and reflect the situation of the sexes and of minority groups. The social indicators used by the Committee on Economic, Social and Cultural Rights could therefore only serve as a basis for the Committee's work.

6. In order to establish truly significant social indicators, the Committee should follow the example of the other treaty body and seek the advice of United Nations agencies such as WHO, UNICEF and UNESCO. It might also wish to draw on the goals set by Governments at the World Summit, held in September 1990 in New York. However, unlike the rights embodied in the Convention, those goals had a specific time-frame of 5 or 10 years. The Committee would need to consider how the various sources of information available could be used to produce significant indicators for its work, and should be particularly wary of statistics provided by Governments, which were not always reliable.

7. Lastly, the Committee should consider whether the provisions of article 4 of the Convention had some bearing on the issue. Should it attempt to assess whether States parties were taking all appropriate measures to implement the rights embodied in the Convention to the maximum extent of their available resources, and if so, how should it tackle the task? Admittedly, it was an issue which brought a number of political factors into play, but ought nevertheless to be addressed. The Committee on Economic, Social and Cultural Rights had convened a special meeting for December 1992 to conclude the work. Although it would not be possible to attend that meeting, he hoped that the Committee would be kept informed of further developments and possible results.

8. Miss MASON, reporting on developments in the Human Rights Committee as outlined in its report to the General Assembly at its forty-sixth session (A/46/40), highlighted matters of special interest. Generally speaking, it had been noted with satisfaction that there was increasing awareness of the importance of respect for human rights, although the challenge to the Centre for Human Rights was greater than ever as massive and widespread violations continued. Another welcome development was that the Second Optional Protocol, aiming at the abolition of the death penalty, had entered into force in July 1991. The Human Rights Committee had also made reference to the constructive consultations on the implementation of the Convention on the Rights of the Child involving a number of United Nations agencies. Mention had also been made of the Committee's informal meeting in Quito, as well as its first formal session in Geneva.

9. However, the Human Rights Committee had not been satisfied with the results of its work in a number of areas and had therefore decided to review some of its working methods. In particular, it had agreed on the need to review guidelines on the form and contents of reports submitted by States parties. The consideration of such reports constituted the core of the Human Rights Committee's work, as it encouraged a more open attitude to violations. It had been found that too many reports contained discrepancies, contained insufficient detail on the actual administration of the law and that some State representatives lacked the ability to reply to questions.

10. The Human Rights Committee had also felt it necessary to review and update some of its general comments, which had been adopted over a period of 10 years. Of particular interest was the current review of the general comments relating to articles 7 and 10 of the International Covenant on Civil and Political Rights. Those articles, which dealt with torture or cruel, inhuman or degrading treatment or punishment, and deprivation of liberty respectively, corresponded more or less to paragraphs (a) and (b) of article 37 of the Convention on the Rights of the Child.

11. As to the Human Rights Committee's comments on specific articles of the International Covenant on Civil and Political Rights, she noted the similarity between the provisions of article 7 of the Covenant and article 37 of the Convention on the Rights of the Child. The Human Rights Committee had noted that the prohibition of cruel and inhuman treatment in article 7 of the Covenant must be extended to mental suffering and corporal punishment and that States parties must inform the Human Rights Committee of the legal, administrative, judicial and other measures they took to prevent such treatment. The Human Rights Committee had asked to be told how States parties disseminated information to the population on the ban on torture and degrading treatment. A similar requirement should be established by the Committee on the Rights of the Child. States parties to the Covenant had to provide detailed information on safeguards for the protection of particularly vulnerable persons, a category into which children clearly fell. The Human Rights Committee required States parties to specify in their reports what punishments were laid down in national legislation for the relevant offences, and how effect was given to the right to lodge complaints against ill-treatment and the right to a prompt and impartial investigation.

12. Article 10 of the Covenant was also relevant to article 37 of the Convention. In its general comment on article 10, the Human Rights Committee had stated that States had a positive obligation to protect particularly vulnerable persons deprived of their liberty. In particular such persons should not be subject to scientific experimentation. The Human Rights Committee had requested that the reports of States parties should indicate whether the Beijing Rules and the Standard Minimum Rules for the Treatment of Prisoners were included in the instruction given to those in authority over persons deprived of their liberty, and whether they were strictly adhered to. The consideration by the Human Rights Committee of the question of segregation, and the recognition that the penitentiary system must provide for rehabilitation, were also relevant to article 37 (c) of the Convention.

13. Further points of interest were the appointment by the Human Rights Committee of a Special Rapporteur on New Communications, the establishment of a five-member group to look into the admissibility of communications, the adoption of a simplified format for decisions on admissibility, setting out the facts submitted by the author, the complaint, the observations of the State party and the issues and proceedings before the Committee, and the need for a mechanism to monitor a State party's compliance with the recommendations of the Human Rights Committee.

14. The Human Rights Committee had adopted headings for its revised guidelines that might also be of assistance to the Committee on the Rights of the Child: land and people; general political structure; general legal framework within which human rights were protected; information and publicity; guidelines regarding the form and content of the initial reports of States parties.

15. On the basis of her research she believed that it was essential to look into the question of the submission, form and content of reports and the need for States parties to send properly qualified representatives to assist the Committee in carrying out its work.

16. Mr. GOMES DA COSTA said he was concerned about the situation of children, in particular juvenile offenders, in many countries in Latin America where children in trouble with the law were unable to benefit from the Beijing Rules, the Standard Minimum Rules for the Treatment of Prisoners or the Convention. Children could be deprived of their liberty without a written order from the judicial authorities and even without being found in flagrante delicto. Hence there was a need for a change in the legislation affecting children and then for a thorough reorganization of the institutions that dealt with juvenile offenders. A new mentality and approach had to be developed by those working with children in order to guarantee the rights of the most difficult among them.

17. Mr. KOLOSOV asked whether the Committee would be receiving reports on the activities of other treaty monitoring bodies at each of its sessions, and if so, whether liaison officers would have to inform their colleagues of such reports by countries from which the Committee on the Rights of the Child had also received reports.

18. Mr. HAMMARBERG said that reporting on the work of the other treaty monitoring bodies had probably been useful, but once States parties started submitting reports to the Committee it would no longer be possible to engage in such a lengthy exercise. Accordingly, in future any similar presentations on the work of other bodies should be submitted in advance in writing, with oral comments confined to the highlighting of important points.

19. As to Mr. Kolosov's question, he assumed that when a country was the subject of discussion by the Committee it would be provided with relevant information by that country itself on its reports to other treaty monitoring bodies.

20. Mrs. SANTOS PAIS said it would none the less be interesting for the Committee, if time permitted, to take a quick look at developments at regional level during the year. Moreover a review of the work of the other treaty monitoring bodies at each session would be useful in enabling the Committee to avoid making the same mistakes as others. In regard to the question of country reports raised by Mr. Kolosov, she considered that the pre-sessional working group, if established, would be the best forum for preparing the relevant discussions.

21. Mrs. EUFEMIO asked whether the secretariat would analyse the country reports to see how the articles of other instruments that related to the Convention on the Rights of the Child were implemented. The Committee would then be able to pinpoint any discrepancies.

22. Mr. KOLOSOV observed that, if he was responsible for a country report, he would not be satisfied with an analysis by the secretariat but would wish to see the relevant country reports to other treaty monitoring bodies. The members of the Committee needed full, not abridged, information.

23. Mrs. SANTOS PAIS, commenting on the preparation by the secretariat of documentation regarding reports submitted by States parties, particularly to other treaty monitoring bodies, recalled that the Committee had already adopted a recommendation requesting the secretariat to organize country files and to prepare an analytical study of available information concerning each State party. That was very important, and the present session would certainly show how the system could be improved. The compilation of existing information concerning each State party would help in studying issues that seemed to be of particular importance. It was, of course, for the experts to draw their own conclusions, but their task would be made easier if the secretariat were to put together the different elements beforehand, making cross-references to the various reports. In any case, a very important beginning had been made with the information system. Once all the appropriate documentation concerning a particular country or thematic issue had been put together, members would be able to see how informatics could be used. In that respect it was essential for the system to be designed in such a way that it could provide the answers to members' questions.

24. Mrs. BELEMBAOGO said that, while it was essential for the Committee to be aware of the work done by other treaty bodies and of the decisions taken by them, it was desirable that as from the next session only new developments of interest to the Committee should be dealt with.

25. Mgr. BAMBAREN said that the information given in States parties' reports would be very helpful, but in addition it would be useful for the Committee to study one or two general issues such as the one scheduled for the present session under agenda item 10, using unofficial as well as official source materials.

26. Mr. GOMES DA COSTA said he agreed with Mgr. Bambaren and stressed the importance of the work done by non-governmental organizations, both national and international, mainly in regard to article 37 of the Convention. Use of their reports should be encouraged.

27. The CHAIRMAN, commenting on the question of reports submitted to other treaty bodies, said she would take it that it would be sufficient if the member of the Committee responsible for making an in-depth study of a particular country's report could have available the country file, perhaps with some preliminary comments on the data included in it, before he examined the report submitted to the Committee. As to the review of developments in other treaty bodies, she would take it that the Committee thought it pointless to repeat the

exercise that had just taken place and that in future only new developments of interest to the Committee would be taken up, thus saving much time. Again, to meet the points raised by Mgr. Bambaren and Mr. Gomes da Costa, some time should be set aside to discuss general issues of importance to the Committee and to other treaty bodies and that inputs by non-governmental organizations should be used.

28. It was so decided.

29. Mrs. SANTOS PAIS suggested that a short amount of time should be allocated to discussing the most important developments at the regional level.

30. Mrs. BELEMBAOGO proposed that such an exercise should be initiated at the beginning of the next meeting.

31. It was so decided.

SYSTEM OF DOCUMENTATION AND INFORMATION (agenda item 7) (E/C.12/1991/SR.19 to 21)

MATTERS RELATING TO THE METHODS OF WORK OF THE COMMITTEE AND THE PRE-SESSIONAL WORKING GROUP IN RESPECT OF THE CONSIDERATION OF REPORTS TO BE SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 44 OF THE CONVENTION, INCLUDING:

(a) CONSIDERATION OF THE QUESTION OF TECHNICAL ADVICE OR ASSISTANCE

(b) CONSIDERATION OF THE QUESTION OF AN INFORMAL TECHNICAL ADVISORY GROUP (agenda item 8)

CONSIDERATION OF INFORMATION REQUIRED UNDER EACH SECTION OF THE REPORTING GUIDELINES (agenda item 9)

32. Mrs. SANTOS PAIS said that the great importance the Committee attached to information and documentation had already been reflected in the deliberations at the first session. In adopting its report (A/47/41), the Committee had requested the secretariat to provide it with a compilation of international instruments relevant to its work, a set of general comments adopted by other treaty bodies and a set of recommendations of interest to the Committee. Those documents were now available, but it would be helpful if the secretariat could give some guidance on how members should use them.

33. The Committee had also asked the secretariat to supply some information on the follow-up action taken in respect of some of the questions to which it attached importance, including the provision of a Committee resource room, computerization and the availability of information concerning the work of the Committee at United Nations information centres. There was also the question of arranging for representatives of the Committee to be present at meetings of other treaty bodies, including the seminar on statistical indicators. Some information on those points would be appreciated.

34. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) replied that, in view of the importance attached by the Committee and other treaty bodies to the distribution of the reports received from States parties and of the relevant summary records, it had been agreed that those documents should be sent to all 60-odd information centres, which had been requested to draw attention to them. The arrangement applied only to the reports by States parties and to the appropriate summary records, not to the annual reports adopted by treaty bodies, although the possible distribution of those documents would be considered.

35. Computerization of treaty body documentation, which had been discussed for a long time, was now at the initial stage. The General Assembly had requested the Secretary-General to ensure that a database for treaty bodies was established on a priority basis, but it would have to be funded from voluntary contributions. The amount needed was US$ 500,000, but so far the secretariat had received a total of only three contributions which fell far short of that figure. It was hoped that more funds would be available soon. Subsequently, some 18 months would be required to make the system operational. Operating costs would be covered by the regular budget.

36. With regard to the establishment of a Committee resource room, it should be borne in mind that the Centre for Human Rights had serious space problems. The room would have to be large enough to contain all the necessary information and would also require a documentation assistant, for whom there was no provision in the budget.

37. The Committee would be invited to arrange for its representation at the meeting on statistical indicators, to be held from 14 to 18 December. Any other meetings with members of other treaty bodies to exchange information would have to be financed from existing resources. At present, the only forum in which the various treaty bodies could exchange views were the periodic meetings of chairpersons held every two years, the next being scheduled to take place from 12 to 16 October 1992. Lastly, she assured Mr. Kolosov that if the Committee resource room were in the Palais des Nations, it could be used at any time.

38. Mr. HAMMARBERG expressed concern at the slow progress being made and the enormous amount of work involved in creating an effective computerized information system. It was particularly frustrating to have to rely on a lengthy process of inviting Governments to contribute to a voluntary fund when only a small sum of money was needed. It would certainly not meet the Committee's needs for a functioning system by the end of 1992 to back up the consideration of country reports. Nevertheless, the Centre for Human Rights should indicate what type of information it envisaged covering by a system financed in that way, and what would be open to people outside the system. In view of the number of outside sources interested in building on the Centre's information system, care should be taken to ensure compatibility with other existing and planned systems.

39. If, as he feared, the Centre's ambitions were limited to a United Nations documentation centre to service the Committee by providing it with information relating to treaty reports and other discussions within the Commission on Human Rights, the Economic and Social Council and the General Assembly, the information fed into the system should be easily retrievable by the Committee and therefore based both on countries and on themes either in accordance with the Committee's own guidelines or with the articles of the Convention. He wondered how far discussions had gone between the Centre and other United Nations bodies in that connection. ILO, UNICEF, FAO, WHO, UNHCR and others all had a wealth of information of interest to the Committee, but no system had been devised to enable them to retrieve information easily on areas where there was an overlapping mandate. As to NGO contributions, discussions had been initiated by the UNICEF Research Centre in Florence on some kind of division of labour between the various bodies involved and the establishment of compatible systems.

40. Mrs. SANTOS PAIS thanked the secretariat for its very useful information and emphasized that it was not the Committee's intention either to blame or to criticize, but rather to encourage changes, as undoubtedly called for by other committees. A Committee resource room was no idle fancy: the Committee needed a place where it could be confident of finding all the information needed; furthermore, a proper cross-referenced system would ultimately save time and manpower for the Committee and for the Centre itself. A computerized system would take up less space than a traditional records system, although somebody would be needed to handle the data and decide how it should be processed. If that stage were reached a resource room might not even be needed. It would be interesting to learn whether the information already available was stored in such a way as to be readily retrievable when a computerized system was installed.

41. The decision that meetings of chairpersons of treaty bodies should be held every two years was encouraging. The Committee's intention at its previous session had been to follow a recommendation by the Committee on Economic, Social and Cultural Rights that liaison members be appointed to discuss with their counterparts specific aspects common to all committees. Such an arrangement could make all the difference to the way in which States parties complied with their obligations and engaged in dialogue with the United Nations. In addition, as it had already been made possible for two committees to meet in parallel, it was not unreasonable for the Committee to request that it, too, should do likewise. It was important to continue to try to improve the methods of work and at the same time to identify ways in which the Committee might assist the secretariat and respond to the help the latter provided.

42. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) said that the information fed into the treaty bodies database would mainly be that generated by States parties and by the various committees, such as reports of States parties, summary records, committee decisions and data on ratifications, accessions, and reporting dates. When the Centre had considered the establishment of a database, UNHCR, ILO, the Council of Europe and the European Commission on Human Rights had been contacted and it had been agreed that the system should be compatible with other regional or specialized systems so that

the treaty database could be linked in. Only at a later stage might the database be made more widely accessible to include States parties and other interested bodies such as specialized agencies and NGOs.

43. All the information published both in New York and Geneva was currently processed on a Wang word-processing system and stored on diskettes either by Conference Services or the translation sections. Published documents could be retrieved, but that was not the case with analytical information.

44. Mr. DAVIES (Defence Children International (DCI)) said that the question of documentation for NGOs had for a long time been one of great concern. For the past three years DCI had concentrated on developing a children's rights documentation centre. It currently had 12,000 documents in a small room; some 4,500 of them were now on computer and easily retrievable.

45. Discussions had also been initiated some 18 months previously with UNESCO, Rädda Barnen International (Save the Children Federation) and other interested NGOs to see how a common language and indicators might be developed in view of the degree to which concepts varied, both regionally and culturally. A keyword index of over 300 words had been devised and it had already been requested by other organizations, but there were still no agreed definitions, including definitions of certain aspects of the Convention on the Rights of the Child.

46. DCI was also holding discussions with UNICEF. In connection with the overall plan being developed in Florence and in cooperation with Rädda Barnen International it hoped to convene a conference or working party in Geneva at the end of November 1992 with a view to determining what already existed. NGOs working in the NGO group on the Convention, other interested organizations some of which had been contacted through the Human Rights documentation centres and United Nations bodies such as ILO and UNHCR were expected to attend. UNHCR would be providing information, based on its own experience, on the benefits and the difficulties of devising an international thesaurus on children's rights. ILO had also been asked to discuss how it saw NGOs fitting into the overall system. A booklet containing the names of over 20 organizations and stating their interest in specific articles of the Convention had also been produced in view of the importance of working out a monitoring method and of being able to obtain any necessary documentation from NGOs in a given country and making it generally available. It was a very long-term project in which the proposed working party would be only a first step. Further discussions would obviously be held with the Centre, UNICEF, which had a key role to play, and other interested bodies on the subsequent steps to be taken.

47. The Inter-American Institute for the Child, in Uruguay, had established a list of Spanish keywords used throughout Latin America and eight different Latin American countries were already linked by modem, all with access to each other's documentation centres. Although one of the disadvantages was the question of compatibility with other systems, it was nevertheless a resource which needed to be explored.

48. Mgr. Bambaren had spoken of a document produced in Ecuador on a group of NGOs which had compiled an initial list of questions for Governments as to how the Convention was being implemented. It was a very impressive document and demonstrated the need for NGOs to combine their efforts and to identify the action they were taking in a given area and the ways in which their information could be made available to the Committee.

49. Ms. GAMBLE-PAYNE (United Nations Children's Fund (UNICEF)) confirmed that UNICEF was very much involved in the question of information gathering and sharing and had for a long time been in touch with NGOs as well as with ILO and UNHCR, both of which had elaborate and extensive systems of documentation and data collection and retrieval. The technical complexities of establishing a database should not be underestimated. On the one hand, the technology was available for instantaneous communication, but on the other, the different systems already being used placed it beyond reach. The question of compatibility would be raised at the meeting with the NGOs, particularly in view of the importance attached to it by the UNICEF Research Centre in Florence. The Committee would be advised of all developments and any information which could be obtained over and above the information that was distributed publicly would be shared as efficiently as possible.

The meeting rose at 6.05 p.m.